

ately reflects Raystay's actual expenses for the Red Lion permit. Rather, it is merely an estimate created through an allocation "theory" of Berfield's own design.

319. Likewise, the \$2,425 figure in the expense certification for engineering fees was not "accurate" as Glendale has claimed. (Glendale PFCL II ¶56.) Raystay's known engineering fees for the Red Lion permit were reflected in Hoover's invoice of March 31, 1989. As Berfield has acknowledged, that invoice was broken down by application and reflected a total charge of \$1,350 for the Red Lion permit. (MMB PFCL ¶346; TBF PFCL ¶730.) Thus, Glendale is constrained to argue that Raystay's expense certification was accurate because Raystay could have factored into its engineering costs an additional \$1,000 that was generated for a frequency study conducted by Hoover in connection with the Red Lion permit. (Glendale PFCL II ¶¶52, 55.) But this ignores the undisputed fact that Hoover's additional

56/ (...continued)

tion. (Glendale PFCL II ¶50.) To the contrary, Berfield testified that he quoted a price range of \$5,000 to \$6,000 for the initial preparation of all five LPTV applications, but that he did not recall articulating any breakdown among the five applications. (Tr. 5505, 5404-05.) Moreover, he allegedly conveyed the quote orally and did not memorialize it in writing. (Id.) Berfield's fees for preparing the five applications were billed in the aggregate, and nothing in the record suggests that they were ever broken down by application. This renders highly suspect Berfield's claim that he can remember now -- more than five years after the fact and without benefit of any supporting document -- charging precisely \$4,000 for the Red Lion application. That suspicion is heightened by the fact that, as Berfield admits, his 50% overall allocation would produce the desired result only if \$4,000 were attributed to the initial preparation of the Red Lion application. (TBF PFCL ¶410.)

\$1,000 fee was not known to Raystay when it filed its certification with the FCC. Indeed, as Glendale concedes, the fee was not discovered until Raystay begin preparing for this proceeding. (Id. ¶52.) Therefore, it certainly had no effect on Raystay's understanding of the accuracy of its claimed engineering expenses. Since misrepresentation and lack of candor are offenses of intent, the question of whether Raystay's engineering expenses were accurate in retrospect is irrelevant. The central issue is what Raystay knew when the application was filed and pending. Hence, Raystay's fortuitous post hoc discovery of previously overlooked engineering charges cannot possibly show that Raystay lacked deceptive intent when it certified.

320. Equally without merit is Glendale's claim that the Red Lion allocations were "reasonable." As to Raystay's legal fees, the record establishes that Berfield disregarded the Integrated case and used an allocation "theory" of his own design in order to create an expense figure that would permit Raystay to justify the \$10,000 sale price. Glendale submits that Berfield properly disregarded the pro rata allocation that he understood had been approved in Integrated because "the applications in that case were customized applications with program percentages and special showings quite different from Raystay's applications." (Id. ¶¶13, 69.) However, these alleged distinctions are not apparent from reading Integrated. Moreover, Berfield's testimony does not suggest that he consid-

ered such distinctions when he ~~made~~ the allocations (rather than only later after the issue arose in this proceeding). (Tr. 5412.) Indeed, Berfield admitted under cross-examination that before allocating Raystay's expenses he had not seen the applications that were the subject of Integrated. (Tr. 5501-02.) He was shown one by counsel only a few weeks before he testified in this proceeding. (Id.) Thus, it is readily apparent that these purported distinctions played no role in Berfield's decision to disregard what he understood to be the Review Board's approval of pro rata allocations in Integrated. Nor could the distinctions have justified Raystay's failure to disclose the allocations -- a disclosure that Berfield knew the applicant in Integrated had made.

321. Similarly, with regard to its engineering fees, the record shows that Raystay employed a one-third allocation which flatly contradicted the one-fifth allocation reflected on the face of Hoover's invoice. Even Berfield himself tacitly acknowledged that Raystay's claimed engineering expenses were improper when viewed against Hoover's invoice. (TBF PFCL ¶416.) Nonetheless, Glendale submits that Raystay was justified in applying a one-third allocation because (a) Berfield had not seen a copy of Hoover's invoice before he made the allocation, and (b) he was generally aware of the services that Hoover had provided in preparing the applications, which he thought were allocable by site location. (Glendale PFCL II ¶53.) These claims are entirely without merit.

322. First, the record establishes that Berfield did review a copy of Hoover's invoice before he made the Red Lion allocations. David Gardner's testimony on this point was unequivocal. He consistently affirmed both at his deposition and at the hearing that Berfield told him the day before his deposition that Berfield had reviewed Hoover's March 31 invoice when preparing his letter of November 7. (TBF PFCL ¶420.) This admission against Raystay's interest thoroughly undermines Glendale's argument that Raystay's engineering allocation was "reasonable" and underscores the falsity of the expense certification.

323. Even assuming arguendo that (contrary to David Gardner's testimony) Berfield had not seen Hoover's invoice before he made the Red Lion allocation, his one-third allocation was still unreasonable. The record demonstrates that Berfield had no information at the time concerning Hoover's charges (other than Hoover's March 31 invoice). (MMB PFCL ¶262; TBF PFCL ¶¶415, 417, 730.) Nor did he make any effort to contact Hoover to discuss his fees. (Id.) Regardless of whether this failure to ascertain essential facts resulted from lack of diligence or a wish not to learn adverse information, Berfield's wanton use of a one-third rather than one-fifth engineering allocation was hardly "reasonable."

324. Finally, irrespective of the circumstances surrounding Berfield's allocation, Raystay still cannot overcome the

fact that David Gardner specifically reviewed Hoover's March 31 invoice -- which showed a per application charge of \$1,350 for the Red Lion permit -- before he signed Raystay's expense certification. (TBF PFCL ¶¶392, 419.) Thus, he plainly knew when he executed the expense certification that Raystay's claimed engineering costs were not accurate. It is not enough for Glendale to argue that Berfield acted reasonably and that his allocations were proper, which is not so. David Gardner, a senior Raystay official and the person who signed the certification, had knowledge and access to facts that directly contradicted Raystay's one-third allocation of engineering expenses. Nevertheless, he certified the accuracy of that figure without correction. Accordingly, there is no merit to Glendale's argument that Raystay's allocations were "reasonable."

**5. Raystay's Misconduct Compels
Glendale's Disqualification**

325. Although the Bureau properly concludes that "Raystay deliberately provided false information to the Commission and lacked candor in its application for consent to the assignment of the Red Lion construction permit" (MMB PFCL ¶348), it submits that the specified issue should be resolved in Glendale's favor because "George Gardner, the common link between Raystay and Glendale, had no involvement in preparing, reviewing, signing or filing the Raystay assignment application." (*Id.*) However, this resolution fails to consider several factors which require Glendale's disqualification.

326. First, the record establishes that George Gardner was not wholly insulated from involvement in the Red Lion transaction. Rather, he initially approved the \$10,000 sale price without having any concept of Raystay's expenses, he subsequently directed Sandifer to proceed with the sale after terminating Raystay's dealings with Trinity, he received progress reports concerning the transaction, he knew when he instructed Sandifer to proceed with the sale -- only a month or so before the Red Lion certification was signed -- that an application would have to be filed seeking FCC approval, he had ready access to all of Raystay's documents concerning the transaction (including expense records), he was accessible at all times while he was away on vacation, and, of special significance, he was made expressly aware of the application while it was pending before the Commission. (TBF PFCL ¶¶431-34.) Thus, George Gardner had knowledge of facts concerning the genesis, evolution, and status of the Red Lion transaction which compel the conclusion that he must be held accountable for failing to ensure the accuracy of Raystay's filing.

327. Disqualification is particularly warranted here for the same reasons explained in ¶¶287-94 above. Less than two years earlier, George Gardner had been formally placed by the Commission under "heightened scrutiny" for intentionally misrepresenting his diversification intentions in the RKO/Fort

Lauderdale proceeding.^{57/} Thus, to secure grant of Raystay's LPTV construction permits, he had specifically pledged to the Commission that henceforth he would "carefully review" his "applications and statements to ensure that they fully and accurately disclose any pertinent facts." (TBF Ex. 258, p. 3.)

328. This "full disclosure" pledge clearly encompassed not only applications and statements to be signed by George Gardner personally, but also applications and statements to be signed by others on Raystay's behalf. Indeed, to underscore this point George Gardner emphasized in respect to his pledge that Exhibit 3 of Raystay's initial LPTV construction permit applications --

"made full disclosure of the adverse Initial Decision against Adwave, and the applications were amended on July 6, 1989 to report the Review Board's affirmance of the Initial Decision. These actions I believe reflect my desire to ensure that the LPTV staff be fully informed as to these pertinent facts." (TBF Ex. 258, pp. 3-4, emphasis added.)

But the record shows that Raystay's initial LPTV applications were signed by David Gardner as Raystay's Vice President. (TBF Exs. 203, p. 4; 204, p. 4; 205, p. 4; 206, p. 2; 207, p. 4.) Thus, by incorporating into his pledge the applications that David Gardner had signed, George Gardner specifically recognized that his disclosure obligation would apply equally to all applications and statements filed by Raystay, not just those which he was to sign personally. That was what the Commission's

^{57/} George Gardner was represented by Cohen & Berfield -- the very same attorneys he claims to have relied on here -- when he misrepresented his divestiture plans to the Commission. (TBF PFCL ¶437 n. 83.)

staff plainly understood as well when it granted Raystay's LPTV applications based partly on Gardner's "statement that you have disclosed the prior misconduct in each of your low power television applications, and that you now realize the importance of being absolutely candid with the Commission." (TBF Ex. 260, p. 2, emphasis added.) Accordingly, George Gardner had an affirmative obligation to ensure the accuracy of Raystay's expense certification. Yet he failed to make even the most perfunctory review of that certification, despite his probationary status and his prior assurance to the Commission.

329. Viewed against that background, George Gardner's total abdication of responsibility in the face of an express Commission warning merits Glendale's disqualification. See, Golden Broadcasting Systems, Inc., 68 FCC 2d 1099 (1978) (applicant disqualified where its failure to ensure the accuracy of its filings with the Commission, despite earlier assurances that it would improve its performance, evidenced carelessness so "wanton, gross and callous ... as to be equivalent to an affirmative and deliberate intent" to deceive). If the issue under the Character Policy Statement is not Gardner's truthfulness, it is his reliability as the steward of broadcast licenses he controls. For the reasons stated in ¶¶287-94 above, Glendale is not qualified because, here again, George Gardner has proven himself not only untruthful, but an utterly unreliable steward.

IV. MATERIAL DISTINCTIONS BETWEEN NMTV AND GLENDALE UNDER THE TRINITY AND GLENDALE QUALIFICATIONS ISSUES

330. Many of the same legal principles apply to both the Trinity and the Glendale qualifications issues. However, because the principles apply to materially different facts as between the two applicants, they lead to different results. Specifically, the positions of NMTV and Glendale are materially different with respect to the following key considerations: (a) the extent of their respective disclosures to the Commission; (b) the complexity of the issues to which the disclosure obligation pertains; (c) the reasonableness of reliance on counsel; and (d) probationary status and "heightened scrutiny" for prior misconduct.

331. Both NMTV and Glendale agree that where a party has submitted relevant information to the Commission in other filings, no intent to deceive the Commission should be inferred. (TBF PFCL ¶¶664-65; Glendale PFCL II ¶62.) The record shows that a significant amount of the information not included in NMTV's Odessa and Portland applications was included in other NMTV or TBN filings made before the Wilmington petition to deny. NMTV's very first filings with the Commission, which were explicitly referenced in the Odessa and Portland applications, disclosed that Dr. Crouch was NMTV's founder, that he and Mrs. Duff were TBN Directors, that TBN would be financing NMTV, and that NMTV would use TBN programming. (TBF PFCL ¶¶21-22.) TBN

ownership reports disclosed that NMTV's Assistant Secretaries were also Assistant Secretaries of TBN, and that information was also included on the face of the Wilmington application. (*Id.*, ¶267.) Filings that pre-dated the Wilmington petition disclosed that those officers and Mrs. Duff were TBN employees, that Mr. Miller provided engineering services to NMTV, and that TBN and NMTV used the same counsel and consulting engineer. (*Id.*, ¶¶66; 198, n. 38; 203; TBF Ex. 101, p. 39; TBF Ex. 101, Tab V.) The NMTV Bylaws filed in connection with the Odessa application specified Dr. Crouch's powers as President and disclosed that NMTV's principal place of business was the same address as TBN's headquarters. (TBF PFCL ¶30; MMB PFCL ¶21; TBF Ex. 101, Tab I, pp. 5, 14.) It is inconceivable that parties scheming to conceal NMTV's relationship with TBN would have made such disclosures. It also is uncontradicted that Mr. May told the Commission staff that NMTV relied on TBN financing and programming and that Mrs. Duff was employed at TBN. (TBF PFCL ¶¶259-60.) Mrs. Duff's employment at TBN also was highly visible to the public, and it is untenable to infer that anyone could have intended to hide her.

332. We stress that we are not arguing that these disclosures cure the omissions and errors in NMTV's full power applications. It is apparent that serious mistakes were made in preparing those applications, mistakes for which the responsible parties are paying a heavy human and professional price whatever the outcome of this case. We do submit, however, that the

extent to which relevant facts were disclosed warrants the conclusion that the nobody planned or intended to mislead the Commission.

333. Glendale stands in an altogether different position. If Glendale could cite a single document where Raystay told the Commission that it lacked the viable business plan it needed to build its LPTV stations, it might have a case that no deception was intended. If Glendale could cite a single document where Raystay told the Commission that its alleged "lease negotiations" were phone calls of less than 60 seconds during which no terms were discussed, it might have a case that no deception was intended. If Glendale could cite a single document where Raystay told the Commission that the engineer who visited the sites was a buyer's engineer because Raystay was planning to sell the permits, it might have a case that no deception was intended. If Glendale could point to a single document disclosing that the exact expense figure Raystay attributed specifically to the Red Lion permit was actually an allocation of expenses from among five different permits plus expenses from TV40 that had nothing to do with the permits, it might have a case that no deception was intended. But Glendale has no such documents, and it has no such case. Unlike NMTV and TBN, Raystay never put anything on the public record about the real circumstances regarding its applications, because it was in fact trying to deceive the Commission.

334. Both NMTV and Glendale agree that applicants should disclose all relevant information to the Commission pursuant to reasonable notice of the applicable requirements. (TBF PFCL ¶¶656, 680, 701-02, 706; Glendale PFCL I ¶630-31; Glendale PFCL II ¶63.) However, an applicant's ability to know what information is relevant depends on the nature of the issue involved. Here, the issue concerning NMTV involves the interrelationships between the highly complex case-by-case de facto control precedents, a new Commission policy that encouraged very active financial and managerial involvement by group owners, a Commissioner's statement giving a very narrow interpretation of that policy, the manner in which nonstock religious corporations operate, and the Commission's policies on what constitutes control of nonstock entities. (TBF PFCL ¶¶651-56, 659.) Faced with these complicated questions, a licensee must depend on professional legal counsel to determine what information is relevant to the Commission, which is what NMTV did.

335. In contrast, the issue concerning Glendale is very straightforward. To quote Glendale itself (Glendale PFCL I ¶624), it does not "require a law degree" to know (a) that it is not candid to describe an exaggerated array of ostensible pre-construction activities without disclosing that there will be no construction because there is no viable business plan, (b) that a 60-second telephone conversation with an unknown person during which no terms are discussed is not a negotiation, (c) that an engineer advising a buyer about purchasing a permit is not

visiting the site to make pre-construction determinations for the seller, or (d) that arbitrary and subjective cost allocations are not the same as actual expenses. Those are simple matters, and the uncandid nature of the submissions is obvious. Stereo Broadcasters, Inc., 87 FCC 2d 87, 103 (1981) (TBF PFCL ¶710).

336. NMTV and Glendale also agree that reasonable reliance on counsel is relevant to the good faith of an applicant's dealings before the Commission. (TBF PFCL ¶¶551, 710; Glendale PFCL I ¶¶622, 656; Glendale PFCL II ¶67.) Here, based on the complexity of the issue involved and Mr. May's previous demonstration of his disposition to disclose even unfavorable information to the Commission (¶¶26-36 above), NMTV's reliance on him was entirely reasonable. In contrast, despite being placed under heightened scrutiny, George Gardner continued to rely on the same counsel who had represented him when he made a false and uncandid divestiture pledge to the Commission in the RKO/Fort Lauderdale proceeding. RKO General, Inc. (WAXY-FM), ¶26 above. In these circumstances, if any party's reliance on counsel was unreasonable, it was Gardner's and not NMTV's.

337. In addition, it is well-settled that harsher sanctions are warranted for parties already under heightened scrutiny. Folkways Broadcasting Co., Inc., 48 FCC 2d 723, 733 (Rev. Bd. 1974) (TBF PFCL ¶¶717-23.) Here, Dr. Crouch has never been found responsible for any character violation. George

Gardner, on the other hand, was placed under heightened scrutiny for misrepresentations and lack of candor only shortly before he filed Glendale's application. (§26 above.) Thus, unlike TBN and Paul Crouch, Gardner is a repeat character offender. Since even heightened scrutiny did not deter Gardner from further misconduct, no sanction short of disqualification can now achieve that end.

338. For those reasons, disqualification of Glendale is warranted but disqualification of TBF is not.

V. TBF RENEWAL EXPECTANCY

A. Mass Media Bureau Findings and Conclusions

339. Although the Mass Media Bureau properly concludes that TBF is entitled to a renewal expectancy, its findings in certain respects do not give WHFT adequate credit for its outstanding record of service to the public. In particular, the Bureau omits significant facts from its descriptions of WHFT's children's programs and fails to cite substantial public witness testimony establishing the great value of WHFT's programming and its unique and extensive community outreach efforts.

1. Children's Programming

340. As the Bureau notes in its conclusions, children's programming was a significant aspect of WHFT's program service during the License Term. (MMB PFCL §318.) However, the

Bureau's proposed findings omit decisionally significant information about many of TBF's children's programs (specifically, the age of the children to whom the program is designed to appeal) and ignore several programs designed to serve the educational and informational needs of children. This omission is particularly significant, since the Commission has stressed a licensee's obligation to serve preschool children in the audience. See, Children's Television Report and Policy Statement, 50 FCC 2d 1, 7 (1974).

341. None of the Bureau's descriptions of WHFT's children's programming cited the record information concerning the age or developmental group of children to which the program was designed to appeal. The record shows that all WHFT children's programming was age-specific, i.e., designed to appeal to specific ages or developmental stages of children. Kid's PTL, for example, was designed to appeal to children 4 to 10 years old. (TBF PFCL ¶484.) Davey and Goliath appealed to preschoolers through third grade (Id. ¶486); The Gospel Bill Show, 6 to 12 year olds (Id. ¶487); The Flying House, 4 to 12 year olds (Id. ¶490); and Quigley's Village, 6 to 12 year olds (Id. ¶491).

342. Two additional programs designed to appeal to younger children, Circle Square and Superbook, were not mentioned in the Bureau's findings. The record shows that Circle Square served the educational and informational needs of children by discus-

sion of different cultures and featured travel segments to different countries. The program was designed to appeal to children in the 10 to 16 year old age group. (Id. ¶489.) Likewise, Superbook was an animated show emphasizing good moral values and was designed to appeal to the 4 to 8 year old age group. (Id. ¶496.)

343. The Bureau's findings also wholly ignore WHFT programs designed to appeal to and serve the educational and informational needs of teenagers, who are considered children. Report and Order in MM Docket No. 90-570 (Children's Programming), 6 FCC Rcd 2111, 2114 (1991) ("Children's Programming"). These programs include John Jacobs and the Power Team, which discussed topics like drug and alcohol abuse and peer pressure and were designed to appeal to preteens and teenagers (TBF PFCL ¶488); Meadowlark Lemon, designed to appeal to 14 to 18 year olds, which discussed how to deal with problems like drug and alcohol abuse (Id. ¶495); and Why Wait, which discussed teen issues like teen sexuality, AIDS, and family problems (Id. ¶497).

2. Public Witnesses

344. In discussing the testimony of the public witnesses, the Bureau overlooks important aspects of the record and ignores the testimony of certain public witnesses who provide important insights into WHFT's program service. The matters reviewed

below are points the Bureau failed to include in its discussion of these witnesses.

345. The Bureau refers briefly to the testimony of Dr. Walter Anders, Assistant Director of the Department of Public Resources, Metropolitan Dade County. (MMB PFCL ¶179.) However, the findings ignore his testimony describing WHFT's coverage of the welfare issue as of greater depth, more substantive, and having a greater focus than coverage of the issue provided by other television stations in the market. (TBF PFCL ¶516.)

346. The Bureau refers to the testimony of Rev. James Woods of the Issues of Life Church (MMB PFCL ¶180), but fails to mention that Rev. Woods, an African-American, testified that WHFT was particularly responsive to minority community needs. (TBF PFCL ¶515.) Also not mentioned by the Bureau are: the testimony of Robert C. Bashaw of Graceworks, Inc. that the Prayer Line was an important public service, and that the Prayer Line referred many people who need help to his drug and alcohol rehabilitation program (Id. ¶574); the testimony of Cleveland Bell, Executive Director of Riverside House, concerning the large number of people coming to the WHFT studios for food, and how impressed he was with the effort WHFT was expending to help the less fortunate (Id. ¶532); the testimony of Ruther Carter, head of the Perinatal Addiction Unit, testified that WHFT did a better job of covering the problem of drug addiction's impact on young mothers and their children than any other station in the

market (Id. ¶535); and the testimony of Jean Cacares-Gonzales of His House Children's Home that WHFT was the only station in the market taking an active interest in her program or encouraging people to be actively involved in helping her program by volunteering to assist her program (Id. ¶566).

347. The Bureau likewise omits any reference to: the testimony of Richard Dodge of the Turning Point concerning what he characterized as Miami's biggest problem -- suspicion between racial and ethnic groups -- and how impressed he was that when he and members of his group were asked to appear on Feedback, WHFT encouraged him to bring representatives of all racial and ethnic groups who participated in his program (Id. ¶555); the testimony of Dr. Franklin Jacobs, head of Miami's Rescue Mission, that WHFT serves as an important healing influence in a divided community, has made a conscious effort to show people of all racial and ethnic groups working together, and featured significant numbers of African-Americans and Hispanics both as hosts and guests on its local nonentertainment programming (Id. ¶550).

348. The Bureau's findings concerning the testimony of Michael Lewandowski (MMB PFCL ¶189) do not note that Mr. Lewandowski was the pastor of a large church which ran a residential alcohol and drug addiction program for 35 to 40 residents at a time, and that during the License Term almost half the residents of his program came seeking help as the

result of a referral from the WHFT Prayer Line. (TBF PFCL ¶¶538-42.)

349. Rev. Luis Lopez, head of the Ministerios Unidos Por Fe, Inc. testified -- without comment from the Bureau -- that WHFT programming had a large number of minority (African-American and Hispanic) hosts and guests whose appearance on WHFT gave positive images and role models to the minority group members of his program. Rev. Lopez also testified that WHFT served the community through the distribution of food and clothing through the His Hand Extended Program, and had a reputation in the community for community service and responding to community needs, largely through the work of its His Hand Extended Program and the Prayer Line. Rev. Lopez particularly praised the Prayer Line, and noted that his ministry received regular referrals of needy people from the Prayer Line. (TBF PFCL ¶580.)

350. Although the Bureau mentions Crimestoppers, Inc. (MMB PFCL ¶191), it makes no mention of the testimony of Sergeant Gary Morton that a Feedback program on which he appeared was particularly responsive to the issue of crime. The segment which he praised included a full discussion of the issue of youth gangs, and provided specific information about who parents could contact if they had concerns about gangs or needed information concerning whether their child may be a member of a gang. (TBF PFCL ¶544.) Also unmentioned by the Bureau (MMB

PFCL ¶194) is that Pastor Gilbert Rodriguez of Mercy and Truth Ministries testified that WHFT provided information on all community resources available to provide help with a particular problem like drug abuse, and he also praised the value of the Prayer Line as a method of community outreach. (TBF PFCL ¶520.) Rev. Roberto Rosario of Hogar Renacer (briefly mentioned at MMB PFCL ¶195) praised WHFT for providing outreach services such as His Hand Extended and the Prayer Line. Testifying that he got referrals of a number of people to his alcohol and drug treatment program through the Prayer Line, he lauded the Prayer Line as "a good point of contact for someone going through a crisis." (TBF PFCL ¶585.)

351. The Bureau likewise fails to mention the testimony of Rev. Lonnie Tolbert of Christ Centered Ministries describing a joint appearance he made with Roberto Rosario on a WHFT program when they joined in urging the establishment of a drug treatment center in Opa-Locka, which was subsequently built. (Id. ¶528.) Rev. Tolbert recalled that WHFT had a reputation in the community for helping people and serving needs, particularly the Prayer Line and His Hand Extended programs. His program received referrals from the Prayer Line. (Id. ¶530.) Rev. Tolbert also testified that WHFT took care to interview African-American businessmen, preachers, and community leaders to cope with the anger in the African-American community after the Rodney King trial. (Id.) In another incident recalled by Rev. Tolbert, WHFT sponsored and supported a march begun by an evangelist

whose program was broadcast on WHFT which led to a peace between two rival gangs in Miami's Little Havana. (Id.)

352. The Bureau fails to note (in MMB PFCL ¶200) that Ms. Barbara Wade testified that WHFT was one of the first stations in the Miami market to become sensitive to the problem created by youth gangs in the community, and that the Program Director at WHFT called her to find out more about the problem and to schedule her appearance on a program which led to a significant decrease in gang violence. (TBF PFCL ¶586.)

353. In addition, the Bureau's findings totally ignore witnesses who provided significant evidence concerning TBF's program service and outreach services to the community. One is Dr. Robert Barnes, Executive Director of the Sheridan House in Ft. Lauderdale. Sheridan house has two residential treatment facilities for abused and troubled young people. (Id. ¶526.) Following his appearance on WHFT programming Dr. Barnes received a large number of calls from people who wanted help with marriage and family problems. Appeals broadcast during his appearances on WHFT resulted in a number of new volunteers. Dr. Barnes also testified that WHFT programming provided a valuable service to the senior citizens that he serves. (Id. ¶527.)

354. Likewise ignored by the Bureau is Rev. Isaiah S. Williams, Jr., the senior pastor of Jesus People Ministry, Inc., one of Miami's largest African-American church. He was also one of the hosts of WHFT's program, Miami Praise the Lord, which,

when he was the host, emphasized providing information on programs and resources that could help people. (Id. ¶545.) Rev. Williams praised the impact of WHFT's community outreach efforts, particularly the Prayer Line, which included two different people who received important and life-changing help from the Prayer Line. (Id. ¶546.)

355. The Bureau also ignores Mary Jean Washington, the African American Director of the Human Resources Department, City of Hallandale, who referred many people in need of emergency help to WHFT's His Hand Extended Program. (Id. ¶556.) She described HHE as a response to a real community need, calling it a station that provides "a vital community service..." (Id. ¶556) and is "a great help to city government in helping to serve the needs of the community" (Id. ¶558). Jack Thompson, the Republican candidate for Miami city attorney (Id. ¶559), appeared on Miami PTL and Feedback during the License Term discussing indecency and other legal issues. Mr. Thompson testified that the program on which he participated showed that WHFT was a station that was sensitive to local needs and problems and was responsive to those needs. (Id. ¶561.) Thompson also testified that during his appearances the host and hostess and the guests were of different ages and ethnic groups, and that WHFT's program showed the different racial and ethnic groups in a way that was not often seen in Southern Florida -- as a group discussing common problems. (Id. ¶562.)

356. Also not mentioned by the Bureau is Gregory C. Brown, who operates a local ministry feeding the homeless. He testified that WHFT assisted his ministry through donations of food and clothing. (Id. ¶571.) In addition, Mr. Brown, was a Prayer Line counselor who fielded many calls from hurting people who were referred to local ministries and agencies where they could receive help. Moreover, Brown testified that at least six people are alive today because he convinced them not to commit suicide during calls to the Prayer Line. (Id.)

357. And the Bureau makes no reference to Earnest Raymond Hughes, the Executive Director of the Community Christian Counseling, Inc. which provided private and group counseling services to chemically dependent individuals. (Id. ¶577.) After one appearance on a Feedback program Mr. Hughes received dozens of calls from people who needed help, and a number of these people eventually joined his program. (Id.) He also testified that WHFT had a positive reputation in the community for public service because of the Prayer Line. (Id. ¶578.) His organization, in fact, endorses the Prayer Line as a good point of contact for free short-term assistance, and has received a number of referrals from people seeking help through the Prayer Line. (Id.)

358. In its findings the Bureau refers to the fact that SALAD submitted public witness affidavits, one of which was from a Miami NAACP official who stated that WHFT was the only Miami

station that did not meet with the NAACP Communications Committee to discuss hiring practices and public affairs programming. (MMB PFCL ¶203.) WHFT was also faulted for not responding to NAACP press releases and meeting notices. (Id.) Yet there is no evidence that WHFT during the License Term failed to comply with the Commission's EEO minority hiring guidelines. Moreover, the Bureau should have noted the testimony from many of the public witnesses that WHFT was particularly responsive to minority community needs (TBF PFCL ¶515); that WHFT took great pains to show members of different races and ethnic groups working together (Id. ¶555); and that WHFT had a large number minority hosts and guests, which provided a positive role model for many minority group members in Miami (Id. ¶¶550, 580). In addition, the Bureau should have cited the record evidence that WHFT programming was particularly sensitive to the African-American community's needs in the aftermath of the Rodney King trial, and that WHFT alone among Miami area television stations supported and publicized a march which led to a peace between rival gang members in Miami's Little Havana area (Id. ¶530); and the evidence that WHFT programming featured members of different racial and ethnic groups and celebrated the diversity in the Miami community (Id. ¶562). When evaluated in context, WHFT's record of commitment and service to the minority community was outstanding and was so recognized by public witnesses.

3. The Bureau's Conclusions

359. The infirmities of the Bureau's proposed findings lead to erroneous conclusions. Thus, the Bureau's failure to fully describe the children's programming provided by WHFT causes the Bureau to undervalue the impact of WHFT's children's programming on TBF's renewal expectancy. The Bureau states only that WHFT "regularly carried children's programming which sought not only to entertain but to educate." (MMB PFCL ¶315.)

360. WHFT's record of children's programming deserves greater credit. The evidence shows that WHFT provided a large amount of children's programming, in terms of both number of hours and number of programs. All programming for which TBF claimed credit was specifically designed for children and to meet their educational and instructional needs. Moreover, WHFT children's programming was age-specific, meaning that it was produced and broadcast to meet the needs of specific age groups of children. (¶341 above.) The Commission has long been exhorting television licensees to provide children with programming specific to their age and development. Children's Television Report and Policy Statement, supra, 50 FCC 2d at 7-8. In addition, the record shows that WHFT broadcast no fewer than five programs specifically designed to appeal to preschool age members of the audience, a traditionally ignored segment of the audience. (¶341 above.)

361. WHFT's record of service to the children in its audience truly is far above average performance, and is clearly